



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 17.07.2018

CORAM:

WEB COPY

THE HONOURABLE MR.JUSTICE M.V. MURALIDARAN

C.R.P. (MD) No.1477 of 2018

Balakrishnan

: Revision Petitioner/Plaintiff

Vs.

1.Rethinamuthu
2.Saiju
3.Shibu

4.Munchirai Panchayat Union,
rep. by its Commissioner,
Arudesom Village,
Vilavancode Taluk,
Kanyakumari District.

5.Methukummal Selection Grade Village Panchayat,
rep. by its President,
Kulappuram Village,
Vilavancode Taluk,
Kanyakumari District.

6.Junior Engineer,
Tamil Nadu Electricity Board,
Kaliyakkavilai.

7.Tamil Nadu Electricity Board,
Rep. by its Superintendant,
Nagercoil,
Kanyakumari District.

: Respondents/Defendants

Prayer: This Civil Revision Petition is filed under Article 227 of the Constitution of India against the order dated 28.02.2018 passed in I.A.No.63 of 2015 in A.S.No.5 of 2014 on the file of the learned Subordinate Judge, Kuzhithurai, Kanyakumari District.

For Petitioner : Mr.G.Ramanathan

O R D E R

This Civil Revision Petition is filed against the order, dated 28.02.2018 passed in I.A.No.63 of 2015 in A.S.No.5 of 2014, on the file of the learned Subordinate Judge, Kuzhithurai, Kanyakumari District.



2. The revision petitioner, who is the appellant in A.S.No.5 of 2014, has filed an application in I.A.No.63 of 2018 seeking to appoint an Advocate Commissioner and the said application was dismissed on 28.02.2018, by the learned Subordinate Judge, Kuzithurai, only on the ground that the Court has already appointed an Advocate Commissioner in I.A.No.641 of 2009 and the report and plan of the Advocate Commissioner are also marked in Ext.C1 and Ext.C2 and hence, this Court could not appoint another Advocate Commissioner for the very same purpose. Challenging the said order, the petitioner has filed the present Civil Revision Petition.

3. I have heard the learned counsel appearing for the petitioner and perused the materials available on record.

4. This Court and the Hon'ble Apex Court very categorically held that once the Advocate Commissioner was appointed and the report of the Advocate Commissioner is pending, the second Advocate Commissioner should not be appointed. Hence, the learned Judge has rightly considered the same and dismissed the application in I.A.No.63 of 2015 in A.S.No.5 of 2014, on 28.02.2018. Therefore, this Court is not inclined to interfere with order passed by the Court below.

5. In the result,

(a) This Civil Revision Petition is dismissed by confirming the order, dated 28.02.2018 passed in I.A.No.63 of 2015 in A.S.No.5 of 2014, on the file of the learned Subordinate Judge, Kuzhithurai, Kanyakumari District.

(b) The petitioner is given liberty to file an application either to scrap the earlier report filed by the Advocate Commissioner or seeking for re-issuance of warrant for the very same Advocate Commissioner for further report, within a period of two weeks from the date of receipt of a copy of this order.

(c) On filing such application by the revision petitioner / appellant, the trial Court is directed to entertain that application and to pass appropriate orders within a period of four weeks, thereafter, by giving proper notice to both parties.

(d) No costs.

Sd/-

Assistant Registrar (CS-I)

/True Copy/



The Subordinate Judge,
Kuzhithurai,
Kanyakumari District.

+ 1 CC TO Mr.G.RAMANATHAN, ADVOCATE IN SR No. 73415

TRP

TE/SKN-RSK/SAR-4 : 30/07/2018 : 3P/3C

C.R.P. (MD) No.1477 of 2018
17.07.2018